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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,302	05/09/2005	Alain Flers	003D.0030.U1(US)	6013

29683 7590 03/01/2007  
HARRINGTON & SMITH, PC  
4 RESEARCH DRIVE  
SHELTON, CT 06484-6212

EXAMINER
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ROJAS, OMAR R

ART UNIT	PAPER NUMBER
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2874

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/505,302

Applicant(s)

FLERS ET AL.

Examiner

Omar Rojas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action.

### **DETAILED ACTION**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Response to Amendment***

2. With regards to the amendment filed on December 11, 2006, all the requested changes to the claims have been entered. Claims 1 to 11 are pending.

#### ***Response to Arguments***

3. Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive. With respect to the Lynch patent (Patent No. 4,844,580), applicant's argue that "claim 1 differs from Lynch in that the package comprises an overmolded housing, wherein the optical waveguide is overmolded in the housing". See page 6 of the response filed 12/11/2006.

The overmolded limitation recited by claims 1 and 11 is considered to be a process step and does imply any additional structure. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP § 2113 [R-1]. Therefore, no patentable can be given to the "overmolded" limitation(s) recited by the claims.

#### ***Specification***

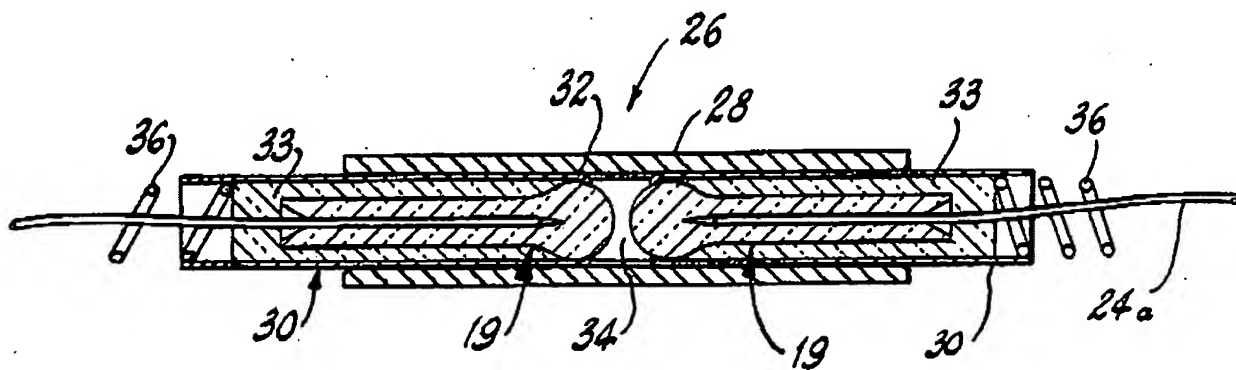
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

following is required: The "housing" recited by claims 1 and 11 is not mentioned in the specification. Furthermore, it is unclear what the "housing" refers to in the drawings.

***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. **Claims 1-4, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Patent No. 4,844,580 to Lynch et al. ("Lynch") previously made of record.** *In re* claims 1, 2, and 11, Lynch discloses a module package 26 comprising a housing 28/30/33 and having an optical waveguide section 18/19/24a interposed between an input optical port of the module and an output optical port of the module, wherein said optical waveguide section comprises at least one flared cone 19 enlarged at one end of the waveguide section and forming an optical input section, and further comprising an end lens 18, wherein the optical section 18/19/24a comprises a portion 19/24a having a diameter which smaller than a diameter of the flared cone along a length of the housing. Figure 4 of Lynch is reproduced below.



**FIG. 4**

Applicant is advised that the method of forming a device is not germane to the issue of

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patentability of the device itself. Thus, the "overmolded" and "overmolding" limitations recited by claims 1, 2, and 11 have not been given patentable weight since overmolding is considered a method of forming the device and does not differentiate the structure of the device itself.

*In re* claim 3, the optical section 18/19/24a shown by Lynch inherently comprises at least two materials having different refractive indices in order to guide light through the section.

*In re* claim 4, the lens 18 is made of a same material as that of the optical portion 19.

*In re* claim 8, as seen in Figure 3, part of optical section 24a is bent to lead into a plane.

*In re* claim 9, housings 28 and 30 of Lynch may be considered "standardized" receptacles.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch as applied to claim 1 above, and further in view of Patent No. 4,695,697 to Kosa.**

*In re* claim 5, the Lynch patent only differs from the claim in that Lynch does not disclose that his package 26 comprises a polymer material such as polyimide. Kosa, on the other hand, shows a sleeve 32 made of polyimide that is used because of its "high strength" and "high temperature properties". See Kosa at column 9, lines 16-21. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to obtain the invention specified by claim 5 by using polyimide material in the housings 28/30 of Lynch as suggested by Kosa.

**10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch as applied to claim 1 above.**

*In re* claim 6, the Lynch patent only differs from the claim in that Lynch does not disclose that his package 26 is metallized. Lynch does disclose the use of the compression springs 36. Metal is commonly used in making springs, as is well-known in the art. It would have been desirable to use metal to fabricate the springs 36 of Lynch in order to provide them with strength and durability. Thus, it would have been desirable to metallize the package 26 of Lynch by using metal springs. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to obtain the invention specified by claim 6 by in view of Lynch.

**11. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch as applied to claim 1 above, and further in view of Patent No. US 6,491,443 B1 to Serizawa et al. ("Serizawa") of record.**

*In re* claim 7, the Lynch patent only differs from the claim in that Lynch does not disclose that a pedestal with gripping grooves. Serizawa, on the other hand, discloses a pedestal 44 having gripping grooves 44a and 50a as seen in Fig. 4. The motivation for combining Serizawa with Lynch is to incorporate the invention of Lynch into a transceiver device thereby enabling bi-directional communication. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to obtain the invention specified by claim 7 in view of Serizawa combined with Lynch.

*In re* claim 10, the Lynch patent only differs from the claim in that Lynch does not disclose an electronic integrated circuit for the detection or emission of light rays, the integrated circuit being mounted by reflow soldering of solder beads on the package. Serizawa, on the other hand, discloses a wiring board mounted by solder to a package 41. *See* Serizawa at column 7, lines 1-6. The motivation for combining Serizawa with Lynch is to incorporate the invention of Lynch into a transceiver device thereby enabling bi-directional communication. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to obtain the invention specified by claim 10 in view of Serizawa combined with Lynch.

***Conclusion***

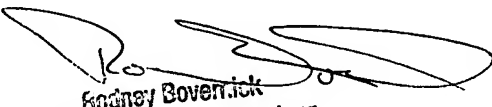
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Rojas whose telephone number is (571) 272-2357. The examiner can normally be reached on Monday-Friday (12:00PM-8:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rod Bovernick, can be reached on (571) 272-2344. The official facsimile number for regular and After Final communications is (571) 273-8300. The examiner's RightFAX number is (571) 273-2357.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Omar Rojas  
Patent Examiner  
Art Unit 2874

or  
February 23, 2007

  
Rodney Bovernick  
Supervisory Patent Examiner  
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